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June 30, 1999

Magalie Roman Salas
Secretary
Federal Communications Commission
445 - 12th Street, S.W., TW-A325
Washington, D.C. 20554

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JUN 30 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: *Ex Parte* Presentation
Communications Assistance for Law Enforcement Act
CC Docket No 97-213

Dear Ms. Salas:

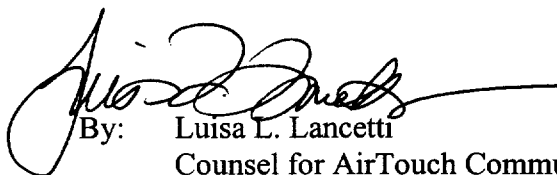
This letter serves as notification that on June 30, 1999, Steve Sharkey and Luisa Lancetti (representing AirTouch Communications, Inc.), had a meeting with Julius Knapp, Geri Matisse, Rodney Small and Jerry Stanshine (of the Office of Engineering and Technology); Jim Green and Charlene Lagerwerff (of the Wireless Telecommunications Bureau); and David Ward (of the Common Carrier Bureau) to discuss issues concerning the above-captioned proceeding. A copy of the presentation material distributed and discussed at this meeting is attached hereto.

Pursuant to Section 1.1206(a), an original and one copy of this letter are being filed with your office. Please associate this letter with the file in the above-captioned proceeding.

Please contact us should you have questions concerning the foregoing.

Sincerely,

WILKINSON BARKER KNAUER, LLP


By: Luisa L. Lancetti
Counsel for AirTouch Communications, Inc.

Attachment

cc: Jim Green
Julius Knapp
Geri Matisse
Rodney Small
David Ward
Charlene Lagerwerff
Jerry (Jerome) Stanshine

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List ABCDE

AirTouch Communications, Inc.

FCC *Ex Parte* Presentation

Communications Assistance for

Law Enforcement Act

CC Docket No. 97-213

June 30, 1999

FBI “Punch List” Items Should Not Be Adopted

- Content of Subject-Initiated Conference Calls
- Party Hold, Join, Drop on Conference Calls
- Subject-Initiated Dialing and Signaling Information
- In-Band and Out-of-Band Signaling
- Timing Information
- Surveillance Status, Continuity Check Tone, and Feature Status
- Post-Cut-Through Dialed Digit Extraction

Content of Subject-Initiated Conference Calls

- Legs of a conference call to which subject is not connected are not part of subject's "equipment, facilities, or services"
- CALEA intended to preserve ability to tap digital or wireless equivalent of the local loop, rather than extend tapping capability
- No wiretap permitted where communication not carried over equivalent of the local loop

Party Hold, Join, Drop on Conference Calls;
Subject-Initiated Dialing and Signaling Information;
In-Band and Out-of-Band Signaling

- Not call-identifying information under CALEA
- Not currently generated or available to carrier
- Not used for routing or identifying calls
- Not “reasonably available” to carrier

Timing Information

- FBI concedes timeliness and timestamp requirements it seeks to impose are *not* call identifying information
- CALEA Section 103(a)(2) does *not* require timestamp or specific timeliness requirement
- Section 103(a)(2) is fully satisfied if carrier delivers all call identifying information promptly after close of call and associated with the particular call
- FCC and FBI cannot impose requirement that CALEA does not require

Surveillance Status, Continuity Check Tone, and Feature Status

- FBI concedes these items are *not* call-identifying information
- These items are not needed to ensure surveillance integrity
- CALEA Section 103(a)(2) does *not* require timestamp or specific timeliness requirement
- FCC and FBI cannot impose requirement that CALEA does not require

Post-Cut-Through Dialed Digit Extraction

- Non-call identifying digits constitute call content
- Digits passed to IXC for further processing constitute call content at originating carrier
- Wireless carriers do not currently use or process DTMF digits and thus have no ability to extract
- For wireless carriers, adding dialed digit extraction involves installation of costly hardware with no communications purpose

Post-Cut-Through Dialed Digit Extraction: Non-Call Identifying Digits = Call Content

- Post cut-through dialed digits include non-call identifying information constituting call content
 - Digits not related to call routing, such as credit card numbers, automated attendant responses, etc. are clearly call content, not call identifying information
 - FBI concedes there is no automated way to separate routing from non-routing digits; accordingly, routing digits cannot be “expeditiously isolated” and are not “reasonably available”
 - All post cut-through dialed digits are already available as call content via Title III wiretap authorization
 - Carriers are obliged to “protect . . . the privacy and security” of digits that are *not* call-identifying information

Post-Cut-Through Dialed Digit Extraction: Digits Passed to IXC = Call Content

- Digits passed through originating carriers' switches to an IXC are not call identifying information:
 - Not used by originating carrier for originating, terminating, or routing; just carried over the voice channel as content
 - Congress said that call-identifying information includes “electronic pulses, audio tones, or signalling messages that identify the numbers dialed . . . for the purpose of routing the calls *through the telecommunications carrier's network*,” while “[o]ther dialing tones . . . *are not to be treated as call-identifying information.*” (House Report at 21)
 - To the originating carrier, tones a customer transmits for routing calls through another carrier's network are not call identifying information

Post-Cut Through Dialed Digit Extraction: Wireless Carriers Don't Use DTMF Digits

- For wireless carriers, post-cut through dialed digits are *never* call identifying information, and are *always* call content
 - Wireless carriers use out-of-band signaling, not DTMF Touch Tone™ digits, for call set-up
 - Wireless carriers have no telecommunications-related reason for, or capability of, extracting dialed DTMF digits

Post-Cut Through Dialed Digit Extraction: Cost for Wireless Carrier Implementation

- For wireless carriers, adding dialed digit extraction capability requires adding new hardware with no communications purpose
 - Dialed digit extraction units, dedicated solely to facilitate wiretaps, will be required for each line (or conference call leg) potentially subject to simultaneous wiretapping
- Software modifications are also required
- Cost issues posed are enormous and greatly exceed cost estimates for other “punch list” items. One AirTouch vendor referred to feature as “cost prohibitive”